



**Activities list for OU3 negotiations**

**Mia Bearley** to: Polly Jessen, Kevin Murray, casey.padgett,  
SKALLEN

09/28/2010 03:53 PM

Cc: Carol Campbell, Stanley Christensen, Bill Murray, Matthew Cohn,  
Bearley.mia, Kathryn Hernandez, Maureen O'Reilly, John Dalton

From: Mia Bearley/R8/USEPA/US

To: Polly Jessen <pjessen@kaplankirsch.com>, Kevin Murray <kmurray@chapman.com>,  
casey.padgett@sol.doi.gov, SKALLEN@utah.gov (e-mail)

Cc: Carol Campbell/R8/USEPA/US@EPA, Stanley Christensen/R8/USEPA/US@EPA, Bill  
Murray/R8/USEPA/US@EPA, Matthew Cohn/R8/USEPA/US@EPA, Bearley.mia@epa.gov,  
Kathryn Hernandez/R8/USEPA/US@EPA, Maureen O'Reilly/R8/USEPA/US@EPA, John

Hello all. Please find attached a cover letter and the promised "activities" list from EPA. Thanks, and look forward to talking to all of you soon.



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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

Ref: 8Enf-L

SEP 28 2010

Via first-class mail and email

Park City  
Polly Jessen, Esq.  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway, Suite 2300  
Denver, Colorado 80202

United Park City Mines  
Kevin Murray, Esq.  
Chapman and Cutler  
201 South Main Street  
Salt Lake City, Utah 84111

Bureau of Land Management  
Casey S. Padgett, Assistant Solicitor  
Department of the Interior  
Office of the Solicitor  
1849 C Street, NW  
Mail Stop #5530  
Washington, DC 20240

State of Utah  
Sandra K. Allen, Esq.  
Assistant Attorney General  
168 North 1950 West, 1st Floor  
Salt Lake City, Utah 84116

Re: Commencement of Negotiations  
Richardson Flat Site, Operable Unit 3

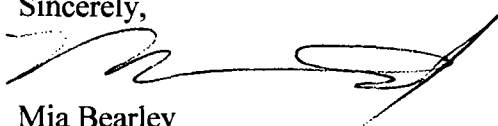
Dear Participants:

Thank you for your continued participation and interest in matters related to the OU3 Site. Please find enclosed a list of the various tasks and activities that the Agency can, at present, anticipate that will be needed for Site investigation and cleanup. As discussed, EPA hopes to begin negotiations with each interested party reviewing this list to consider which Site activities would be most closely aligned with its capacities, knowledge, skills, and available resources. As part of this process, please also begin considering the interests that are important to your client so that we can work to resolve them as part of the proposed settlement agreement.

EPA would now like to move forward as quickly as possible with multi-party negotiations. Early discussions will be focused on the interests each party has expressed and the activities that need to be undertaken. In order to achieve the December, 2010 timeline, please

provide comments on these activities, as well as a list representing your interests at this Site, to representatives of all five parties by Tuesday, October 5, 2010 so that we may discuss these matters together. Thank you for your attention to and consideration of the matters addressed herein.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mia Bearley', with a long horizontal stroke extending to the right.

Mia Bearley  
Legal Enforcement Program

Enclosure

## **Anticipated OU3 Site Activities**

The following outline provides an overview of CERCLA "Work Categories" and sub-tasks within the two upcoming phases: EE/CA investigation and Site cleanup (it does not anticipate activities related to NRD or NPDES). Please note that this outline is intended to supplement, not replace, associated activities found in relevant guidances (e.g., identification of removal action objectives, comparative analysis of removal action alternatives, etc). Further, although EPA has attempted to present a detailed picture of work items needed, we anticipate that each Work Category represents a distinct project to be performed by one party. Unless a party can present a considerable project advantage for its undertaking a sub-task within a Work Category assumed by another party, EPA sees sub-tasks as being too interrelated to be efficiently coordinated amongst several parties.

### **I. PHASE ONE: EE/CA INVESTIGATION (Assessment and Evaluation)**

#### **A. EE/CA Work Category 1: Planning Activities related to Excavation**

Each of these tasks, related to characterization and assessment of the nature and extent of contamination, exist for each of the areas to be included within OU3 that contain exposed tailings, including Silver Maple Claims, Middle Reach and designated areas within OU2:

Evaluate truck access routes to minimize impact to residential traffic

Plan for development of access roads (5 miles x 40' wide), as necessary

Determine source areas and excavation needs. Examine existing data and analysis, identify any data gaps, use existing OU2 RI/FS risk assessment information, as appropriate

Investigations to determine depth profile of contaminated tailings for volume estimates, including surface and subsurface sampling at a finer scale than preliminary sampling events to provide accurate volume estimates

Identify surface water and sediment control measures, including plans for Silver Creek channel reconstruction and water diversion (including plans for any necessary irrigation ditch system (likely earthwork and ditch lining)

Identify ARARs

Work with land owners to evaluate funding through EQUIP to address irrigation ditches

Develop or describe any Institutional Controls

**B. EE/CA Work Category Two: Planning Activities related to Development and Analysis of Disposal Alternatives**

Conduct ongoing Site characterization and assessment of the nature and extent of contamination

Examine existing data and analysis, including URS information related to engineering of the OU3 repository. Identify data gaps

Collect any necessary additional analytical data

Evaluate information related to the loading and hauling of tailings to a repository

Identify ARARs

Evaluate locations necessary for repository

Conduct a stability analysis of potential repository locations including geotechnical and engineering studies for information related to the foundational requirements

Confirm parcels are outside of the 100-year floodplain (that Rail Trail serves as a dike)

Address any concerns related to a parcels' proximity to wetlands and areas of shallow groundwater

Conduct a detailed hydrologic characterization to determine groundwater depth and the impact of irrigation groundwater at potential repository locations

Analyze the amount (and source) of borrow/fill material that will be needed to mitigate the effects, if any, of the shallow groundwater table, where the borrow material will come from and associated cost

Evaluate the impacts of construction and active operation on residences and businesses near potential repository locations

Document capacity issues related to nature of waste; volumes allotted for cleanup versus developmental wastes

Determine timing schedule for short- and long-term use of the OU1 Repository versus the use of the future OU3 Repository

Determine the costs associated with transport, deposition, and waste management

Develop a storage plan for contaminated sediment, if any, excavated from repository parcels during repository construction

## Develop or describe Institutional Controls

### C. EE/CA Work Category Three: Planning Activities related to Prospector

Investigation and Management of Prospector Square contaminated groundwater impacting Silver Creek, not collected by Prospector Drain

Investigate the extent of groundwater contamination in Prospector Square area and the route of transport (i.e., groundwater seepage, conveyance through storm sewers, etc.)

Examine groundwater flow from the bedrock aquifer of the Park City Formation into unconsolidated materials and tailings and then into lower Silver Creek

Examine flow due to infiltration and leakage from the lower Pace-Homer Ditch into the unconsolidated materials and tailings that enters lower Silver Creek or exits the groundwater system at the eastern boundary of the Site

Examine flow from the Prospector Square alluvial/tailings directly into the Silver Claims alluvium

Develop an alternative for the rerouting and/or isolation of irrigation water from parcels

Develop an alternative analysis for lining Silver Creek channel to isolate from contaminated groundwater in the Prospector Square area

Conduct an analysis for repository post-closure land use (open space, commercial development, etc.)

## II. PHASE TWO: SITE CLEANUP (Design and Removal)

In addition to any additional tasks prescribed by guidance, two general work items are related to both of the Cleanup Work Categories identified below. First, a party must secure Site access from the various appropriate landowners within OU3. Also, a party may assist the EPA communications and public involvement coordinator to fulfill the requirements of NCP Section 300.415(n), e.g., within 120 days from initiation of on-site removal activities, conducting interviews and other community relations activities.

### A. Cleanup Work Category One: Prospector

Preparations for on-Site mobilization and selection of contractors to conduct work

Implement cleanup alternative selected to protect water quality and preserve wetland areas, anticipated to include both the cessation of contaminated water (acquire and comply with NPDES permit) and any identified cleanup activities.

Mitigation of wetlands, if necessary

B. Cleanup Work Category Two: Tailings Cleanup and Implementation of Disposal Alternative

Preparations for on-Site mobilization and selection of contractors to conduct work

Development of access roads (5 miles x 40' wide), as necessary, including stripping, grading of the road, and backfill (for temporary roads/fill areas).

Excavation and compaction

Silver Creek channel reconstruction, including addressing irrigation canals (likely earthwork and channel lining) and revegetation.

Closure, revegetation, and maintenance and Institutional Controls of the OU1 Repository, if necessary. Determine source of borrow-fill for capping of repository, if necessary

OU3 Repository design, construction, management, closure, revegetation, and maintenance.

Mitigation of wetlands, if necessary



**RE: Activities list for OU3 negotiations**  
Polly Jessen to: Mia Bearley

09/28/2010 04:02 PM

From: "Polly Jessen" <pjessen@kaplankirsch.com>  
To: Mia Bearley/R8/USEPA/US@EPA

History: This message has been replied to.

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Thank you! We're looking at this now.

-----Original Message-----

From: Bearley.Mia@epamail.epa.gov [mailto: Bearley.Mia@epamail.epa.gov]  
Sent: Tuesday, September 28, 2010 3:54 PM  
To: Polly Jessen; Kevin Murray; casey.padgett@sol.doi.gov; e-mail  
Cc: Campbell.Carol@epamail.epa.gov; Christensen.Stanley@epamail.epa.gov;  
Murray.Bill@epamail.epa.gov; Cohn.Matthew@epamail.epa.gov;  
Bearley.mia@epa.gov; Hernandez.Kathryn@epamail.epa.gov;  
OReilly.Maureen@epamail.epa.gov; Dalton.John@epamail.epa.gov  
Subject: Activities list for OU3 negotiations

Hello all. Please find attached a cover letter and the promised  
"activities" list from EPA. Thanks, and look forward to talking to all  
of you soon.





**Re: Activities list for OU3 negotiations**  
**Kevin Murray to: Mia Bearley**

09/28/2010 04:19 PM

From: Kevin Murray <kmurray@chapman.com>  
To: Mia Bearley/R8/USEPA/US@EPA

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Including prospector may be problematic.

Regards,  
Kevin

Sent from my iPad

On Sep 28, 2010, at 3:53 PM, Bearley.Mia@epamail.epa.gov wrote:

>  
> Hello all. Please find attached a cover letter and the promised  
> "activities" list from EPA. Thanks, and look forward to talking to all  
> of you soon.  
>  
> <Document.pdf>



**Kevin Murray** to: Matthew Cohn, Mia Bearley  
Cc: Casey Padgett, Sandra Allen, "Kerry C. Gee"

09/29/2010 04:46 PM

From: Kevin Murray <kmurray@chapman.com>  
To: Matthew Cohn/R8/USEPA/US@EPA, Mia Bearley/R8/USEPA/US@EPA  
Cc: Casey Padgett <Casey.Padgett@sol.doi.gov>, Sandra Allen <SKALLEN@utah.gov>, "Kerry C. Gee" <kcgee@unitedpark.com>

1 attachment



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Matt, Mia:

I was unable to reach you today, attached please find a letter from UNited Park. Hopefully we can talk tomorrow.

regards,

Kevin

Kevin R. Murray  
Chapman and Cutler LLP  
Salt Lake City Direct 801-320-6754  
Chicago Direct 312-917-7654  
Mobile 801-209-9255  
[kmurray@chapman.com](mailto:kmurray@chapman.com)

September 29, 2010

**SENT VIA EMAIL & FEDERAL EXPRESS**

Matt Cohn  
Mia Bearley  
1595 Wynkoop Street  
Denver, CO 80202-1129

Re: Richardson Flat, Operable Unit 3 Negotiations

Dear Mia and Matt:

We are in receipt of your letter of September 28, 2010 regarding the commencement of negotiations involving Richardson Flat, Operable Unit 3 ("OU3"). United Park City Mines Company ("United Park") remains supportive of proceeding with an Administrative Order on Consent for United Park's performance of an Engineering Evaluation/Cost Analysis ("EE/CA") at Richardson Flat, OU3. However, your letter raises serious concerns regarding the process, the definition of OU3, the expanded scope of the original EE/CA we discussed, and other matters.

We are in the process of evaluating the items in your letter and would like to meet with you as soon as possible, preferably within the next few days, to discuss our concerns.

Very truly yours,

CHAPMAN AND CUTLER LLP



Kevin R. Murray

cc: Kerry Gee  
Casey Padgett  
Sandra Allen